



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE of ARIZONA v. MARICOPA COUNTY COMMUNITY
COLLEGE DISTRICT BOARD et al.,
CV-17-0215-PR**

PARTIES:

Petitioners: Maricopa County Community College District Board (“MCCCD”)
Abel Badillo and Bibiana Vazquez (collectively “Students”)

Respondent: State of Arizona

Amicus Curiae: Pima Community College

FACTS:

In 1996 Congress enacted two immigration-related acts intended to restrict welfare and public benefits for aliens, the Personal Responsibility and Work Opportunity Reconciliation Act (“PRWORA”) and the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”). PRWORA defines aliens’ eligibility for state and local public benefits and generally allows states to define that eligibility. IIRIRA bars a state from providing post-secondary education benefits to non-qualified aliens based on residence in the state.

Arizona voters in 2006 passed Proposition 300 (“Prop 300”), which in relevant part incorporates IIRIRA’s ban on providing in-state tuition to non-qualified aliens.

During the Obama administration, the U.S. Department of Homeland Security (“DHS”) began a Deferred Action for Childhood Arrivals (“DACA”) policy, which defers deportation of unauthorized aliens brought to the country as children. Congress authorizes DHS to issue employment authorization documents (also referred to as “EADs”) to DACA recipients.

Under Arizona Revised Statutes (“A.R.S.”) § 1-502(7) MCCCD accepted employment authorization documents from DACA recipients as evidence of residency to receive in-state tuition benefits. The State filed this action, claiming MCCCD’s policy violates Arizona law. MCCCD asserted Arizona statutes authorized its actions. The Students, DACA recipients who receive in-state tuition at MCCCD, intervened and asserted defenses on constitutional grounds.

MCCCD and the Students filed a motion for summary judgment. After consideration, the superior court concluded DACA recipients are “lawfully present” under A.R.S. § 15-1803 and are therefore eligible for in-state tuition benefits. Having decided the matter under the statutes, the court did not reach the Students’ constitutional claims. The State appealed.

The court of appeals reversed and remanded to the superior court. The court concluded that Congress has not defined DACA recipients as “lawfully present” for purposes of public

benefits such as post-secondary tuition waivers. It held that (1) Congress authorized each state to determine whether non-qualified aliens should be afforded state or local public benefits; and (2) Arizona's statutes do not show intent to allow DACA recipients to receive in-state tuition.

Now-retired Judge Patricia Norris, wrote an extensive concurrence, explaining that she would have reached the same conclusion but would start her analysis with state law rather than federal law.

ISSUE GRANTED REVIEW:

Whether DACA recipients who are lawfully present in this country while they are participating in the DACA program are eligible for resident tuition.

This Summary was prepared by the Arizona Supreme Court Staff Attorneys' Office solely for educational purposes. It should not be considered official commentary by the court or any member thereof or part of any brief, memorandum or other pleading filed in this case.